



Setti D. Warren  
Mayor

## CITY OF NEWTON, MASSACHUSETTS


Department of Planning and Development  
Candace Havens, Director

Telephone  
(617)-796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089

---

Date: January 20, 2011

To: Zoning and Planning Committee of the Board of Aldermen

From: Candace Havens, Director of Planning and Development 

Re: Mixed-Use Centers Element; #26-11

CC: Phil Herr, Mixed-Use Task Force Chair  
Planning and Development Board

The purpose of this memorandum is to provide the members of the Zoning and Planning Committee of the Board of Aldermen with technical information and planning analysis to support its decision making process. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the working session.

---

### **RECOMMENDED ACTION:**

Staff recommends that the Zoning and Planning Committee recommend that the Board of Aldermen refer the Draft Mixed-Use Centers Element to the Planning and Development Board for review, with its comments to be reported back to the Board of Aldermen within two months of its referral to the Planning and Development Board.

### **BACKGROUND**

On September 29, 2010 Mayor Warren's Mixed-Use Task Force completed drafting an amendment to the Comprehensive Plan regarding Mixed-Use Centers, which then was presented to the Mayor. Pursuant to Section 7-2(b) of the City Charter, the Mayor has requested that the Board of Aldermen refer this draft amendment to the Planning and Development Board for comments within a time specified by the Board of Aldermen. In anticipation that Board of Aldermen will refer this document to the Planning and Development Board without delay, the Planning and Development Board is tentatively planning for its review in February. As such, staff recommends a two-month turnaround time. Upon receipt of the Planning and Development Board's recommendations, the Board of Aldermen will hold a public hearing and may adopt the amendment, with or without further revisions. The document is provided for reference, but review by the Zoning and Planning Committee is not expected at this time.

Attachment: Mixed-Use Centers Element

# DRAFT



## NEWTON MAYOR'S MIXED USE TASK FORCE

City of Newton, Massachusetts

Setti D. Warren, Mayor

Philip B. Herr, Committee Chair

Candace Havens, Interim Director Dept. of Planning & Development

Mixed use Task Force Website

City Hall, 1000 Commonwealth Avenue, Newton, MA 02459

Telephone (617) 796-1100 FAX (617) 796-1113

Telephone (617) 969-1805 FAX (617) 332-9499

Telephone (617) 796-1120 FAX (617) 796-1142

[http://www.newtonma.gov/Planning/mixed\\_use\\_tf/mixed\\_use.htm](http://www.newtonma.gov/Planning/mixed_use_tf/mixed_use.htm)

## DRAFT MIXED-USE CENTERS ELEMENT

---

October 8, 2010

Mayor Warren appointed a 20-member Mixed Use Task Force in June, 2010, and asked the members to prepare a draft modification of the 2007 *Newton Comprehensive Plan* to deal with mixed-use centers. The following is the final Task Force draft for such a modification, structured as a new element to be inserted into that *Plan*.

Following review by the Mayor and any resulting changes having been made by the Task Force, the Draft will be sent to the Board of Aldermen for its review and potential adoption. Prior to adoption, the Draft will be reviewed and reported on by the Planning and Development Board, probably following a public workshop on it. After receipt of the Planning and Development Board report a public hearing will be held by the appropriate committee of the Board of Aldermen, following which the full Board will vote on approval or not of the modification.

Two additional items have been prepared by the Mayor's Task Force as informational materials as of this same date but are not intended for adoption into the *Comprehensive Plan*. "Collaborative Impact Assessments" expands upon material in the draft element regarding impact studies to be made early in the project design process, bringing together those proposing the development, City staff and officials, and citizens from the vicinity and beyond. "Illustrative Performance-Based PMBD" sketches how the existing City Zoning governing mixed-use centers might be modified to reflect the proposed *Comprehensive Plan* modification and "Collaborative Impact Assessments."

1. Vision .....	Page 1
2. Strategy .....	1
3. Designing Mixed use .....	2
4. Access and Transportation .....	5
5. Housing in Mixed use .....	8
6. Finance and Mixed use .....	10
7. Mixed-use Guidance Process .....	13

## MIXED-USE CENTERS

*“Plans are nothing – planning is everything.”  
Dwight Eisenhower*

### 1. VISION

The livability of Newton has been greatly enhanced by its traditional mixed-use village centers. The future livability of the City can be further enhanced through the creation of a number of well-located and well-designed new mixed-use centers. Those centers should be exemplars of excellence in place-making, being great places in which to work, live, shop, recreate, or just visit and be within. In doing so they would accommodate a share of the modest amount of growth that is anticipated and planned for by the City, as outlined elsewhere in this *Comprehensive Plan*. Doing so would help avoid growth straining the scale and ambiance of existing centers and without overburdening the capacity of the locations where these new centers are to be developed. They would further benefit the City by adding both jobs and fiscal support. Careful guidance should assure that the interests of the vicinities within which they are sited are given careful consideration regarding the location, programming, and design of these new centers.

### 2. STRATEGY

To achieve that vision the City needs an approach that makes the creation of such integrated mixed-use centers not only possible, which they are today (with the first such currently undergoing review), but also attractive to both those who might propose them and those impacted by them. Mixed-use development on appropriate sites needs to be made more appealing to those doing development than would be the more usual separations among business, residential, and civic development. Since no feasible wholly vacant site for such use appears to exist anywhere in the City, such development also has to be more attractive than continuing existing under-utilization of already developed land. Finally, such mixed-use development should be responsive to what the City seeks rather than, as has too often been true, having the City revise its plans to accommodate those of developers.

To achieve that, the City needs a decision-making structure that provides advance clarity of intentions, sensible guidance, and reasonable regulatory and financial requirements. For those planning development, the approach should facilitate prompt decisions and provide predictability about what will or will not be likely to gain approval. For people in nearby neighborhoods the approach should provide predictability about the limits to potential impacts of development and a well-defined role in the process of managing it, going beyond the minimum requirements for public voice as stipulated in statutory law.

An important step in satisfying those conditions will be the adoption of this element of the *Comprehensive Plan*. Another will be the adoption of zoning revisions that will

## DRAFT

address the now-evident obstacles to usage of our existing PMBD mixed-use regulations. Still another important step will be the structuring of a review process that supports collaborative evaluation in a process involving both City and applicant-supported professionals and community citizens seeking a shared understanding of impacts early in the planning process.

The reality of having two new mixed-use developments currently being proposed strongly colors the timing and strategic approach for the preparation of this Element of the *Comprehensive Plan* and of the implementing steps that it calls for. In light of that, this sequence of efforts is needed.

- As we have been doing in recent months, people from a broad variety of perspectives need to be engaged in shaping an image of what good mixed-use development for Newton would be, and what the essentials of a good process for achieving that would be. That effort was begun during the preparation of this element, and should continue through all of the steps to follow.
- This Mixed-Use Centers Element for the *Comprehensive Plan* needs to be adopted, which will formally evidence that the element appropriately reflects City intentions.
- The basic regulatory measures necessary for implementing the *Plan's* intentions need to be adopted. Doing so will give further evidence of the City's intentions, and will provide the basic regulations needed to better guide this form of development.
- The tools and procedures for a collaborative input and review process need to be put in place, assuring a well-structured and well-informed voice for both neighborhoods and Citywide interests to assist in enabling those proposing development and for the City officials and staff to give shape to developments that will be rewarding from all of those perspectives. This will involve not only regulatory efforts but also developing needed analytic tools and structuring needed participatory processes.

### 3. DESIGNING MIXED USE

#### Background

Unlike new mixed-use centers, Newton's villages grew incrementally over several centuries of profound change and at the hands of many actors. Despite those and other differences between then and now, locating, programming, and designing new mixed use would do well to learn from our existing village centers. One lesson is that while the full set of villages serves us well, those centers are highly individual. No tight template governing their development would have produced as good an outcome as has some invisible hand that has allowed broad variations. However, the set of village places does have some powerful consistencies, and those are critical to their success. In guiding

## DRAFT

development of new mixed use, we shouldn't be overly prescriptive about how development should be shaped, but should be firm about assuring consistency with those qualities that have historically proven critical to success in Newton's development.

These are important among them.

- Each village center is made up of a mix of uses, not simply one dominant one.
- The uses are not segregated from each other but rather are mixed at fine grain.
- They are easy to move within and among on foot.
- To a greater or lesser extent, the uses are interrelated, to some degree serving or depending on each other, so that the adjacencies and integration are not just symbolic, they are functional.
- It is usually hard to define where the village center ends: the zoning map came too late to dictate otherwise. To successfully replicate that kind of "soft" transition from center to surroundings is challenging, but critically important in the long term.

### Guidance

The lessons from our existing villages are clear. The design intention for mixed-use development should be to create positive, even integrating, relationships with the surrounding context, not buffering the new from the existing, unless dictated otherwise by unusual circumstances. Functional and visual integration of uses within the development is critical for supporting vitality. Shared places or spaces or both are critical to that intention, which suggests new buildings oriented to both new and existing streets they share with others, not turning their backs on them, or alternatively using some other means, such as shared common connected outdoor spaces, to accomplish comparable integration.

The vitality sought can be achieved only given a true sharing of place among dwellings and businesses, and having at least some businesses that provide nearby residents with jobs or services or other benefits. Connections by both street and pedestrian pathways are critical to accomplishing that. There should be both precedent and flexibility regarding the categories of use that are part of the mix, and there should be flexibility for the location of those uses within the center regardless of the configuration of the underlying zoning districts in order to achieve the overall design intent.

Truly vibrant mixed-use centers typically involve not only a mix of commercial and residential uses but also include a significant public amenity that helps in the creation of a sense of place. They typically are co-located at an accessible public transportation node. It is important both functionally and symbolically for the pathway from residences to public transportation to be an easy and pleasurable one.

## DRAFT

Mixed-use development absent one or more of the above qualities is certainly possible, but lacking them would make it more difficult to achieve the kind of outcome that is being sought, so would require some offsetting contributions through programming, design or location.

The shaping of buildings and spaces so as to achieve the goals being sought should be guided by an insistence upon consistency of outcomes with intentions such as the following, to which the complex tables of numerical rules would be made secondary.

- The shaping of buildings and spaces should be respectful of and compatible with the context within which the development is to be located, ideally conveying an image of having an organic consistency with its environs without mimicry or preclusion of well-designed differences in massing and scale.
  - For example, exceeding the height of the highest nearby buildings might be allowed, but only upon finding that any shadow effects, view blockage, or departure from established precedents would not be a damaging intrusion, and evidence that the increased height would enable a superior organization of buildings and open spaces, benefitting the overall design.
  - Similarly, the acceptable amount of bulk will depend in part on the visual impact of that bulk. A skillful massing design can make a relatively high level of bulk preferable visually to a smaller but less suitably configured amount of bulk.
  - In addition, there are other considerations in assessing the acceptable amount of bulk, importantly including the ability of the public infrastructure to support the functional demands associated with bulk and the activities it supports, such as traffic, for which metrics for what is “acceptable” should be defined. By managing bulk in this way, for example, efforts towards reducing dependence on single-occupant auto travel would be rewarded with proportionately lightened bulk limits if traffic were the limiting bulk consideration.
- The configuration of buildings and landscaping should create positive outdoor spaces, contributing to the quality of the experience of visiting the place, and not just be vegetated (open space) leftovers between buildings.
- Respect for the environment that goes beyond minimally satisfying land use and environmental requirements is expected as a part of achieving contextual integration.
- Roofscapes should be made into positive assets through their design and forms of usage, providing functional benefits (e.g. solar energy conversion, recreation) as well as visual interest and attractiveness as seen from buildings within and neighboring the development.

## DRAFT

- Creative use should be made of the potential of vertically mixed uses in considering the distribution of uses within and beyond the development.
- Good-faith efforts should be made both during, and subsequent to, development to enhance the extent to which the entire center benefits Newton residents through targeted employee recruitment efforts, training or apprenticeship opportunities, or similar initiatives.

Other design considerations are articulated in the access, housing, and finance sections.

### Actions

- Make efforts to develop guidance more concrete than included here to provide a basis for judging the appropriateness of new development, carefully reflecting the reality that Newton isn't, say, Williamsburg. A cherished quality of the City is that "appropriateness" varies sharply among the villages and other sub-areas of the City. The outcome might be a set of design guidelines such as are commonly developed for communities or neighborhoods.

Even better, the guidance might include modeling that uses measurable metrics for determining early if a proposal, after considering its location, site size, building size, mix of uses and design, is likely to be appropriate. Having such metrics can reduce arbitrariness and increase predictability, much as is done with great complexity by LEED, which dares to be prescriptive and measurable about this topic for the whole of the United States. Much the same was done with great simplicity by the point system in the *Santa Fe Architectural Design Review Handbook* (1988) prepared by Santa Fe architects and planners for a community thought to be visually homogenous only by those who don't know it well. Less exceptional descendants of such work also exist (e.g. "Workbook for Successful Redevelopment," Naperville, IL, 2002).

- Where the above guidance appears appropriately applicable for development other than large-scale mixed-use centers, that guidance should be incorporated into either Newton's Zoning or some other enforceable guidance to be adopted by the Board of Aldermen.

## 4. ACCESS AND TRANSPORTATION

### Background

The Transportation and Mobility element of the *Comprehensive Plan* makes clear a planning intention that is important to planning for mixed-use development centers since they are inherently well-suited to help in meeting the cited objective.

*"We want to assure that the design of new development is well-related to the transportation system that the City intends, rather than development dictating what that system must be, just as fully as we want the design of the*

## DRAFT

*transportation system to be well-related to the development that the City intends, rather than serving only the City as it exists or as predicted rather than intended.”*

### Guidance

By locating a mix of uses within a compact area some trips that otherwise would be made in autos can be made on foot. By concentrating a substantial amount of development, mixed-use centers also concentrate potential trip ends, improving the feasibility of alternatives to single-occupant auto trips, ranging anywhere from car pooling to rail transit, even enhancing the feasibility of shuttle bus connections. Bicycle access and pedestrian access both between uses within the development and between those uses and ones in the off-site areas around them can substantially reduce the share of trips made by auto if alternative means of access are made easy, safe and pleasant. No mixed-use center should fail to make those efforts.

The mix of uses within the development can within limits be managed to reduce the amount of traffic generated. Trip generation in relation to building floor area varies widely between residential on the low end to retail on the high end. Including more housing and less retailing means fewer trips from the same amount of floor area. Further efforts at trip and parking demand management become feasible where mixed-use centers have an over-arching management structure. Car-pooling, company parking protocols and vans, incentives for employee and others to use public transportation, all can contribute to auto trip reduction.

Finally, development at a relatively high density creates enough value to enable some level of mitigation of the traffic impacts that it causes. That mitigation will be welcomed by neighbors and others when it facilitates provision or enhancement of public transportation, removal of existing safety concerns or traffic flow impediments, or skillful traffic engineering at intersections, which often can greatly improve traffic movement with little physical change. However, choices get harder when the scale, mix of uses, and feasible alternative mode and demand management efforts are inadequate to offset trip volumes projected from the development.

The way the City addresses those hard choices should be no different for mixed-use development than for single-use development. The location, programming, design, and management of all major developments and the access provisions related to them should be guided so that conjunctively they essentially cause no harm, meaning among other things that the ease of travel by persons of all abilities regardless of mode is not materially worsened as a result of the development and its related “mitigations,” and the means of achieving that do not do damage to community or environmental values, thereby damaging the qualities of the City that we want. We don’t want quiet residential streets to be turned into major arteries, even if doing so allows traffic to flow more easily than before, any more than we want to see accessibility for pedestrians or bicyclists damaged in order to facilitate auto travel. Whether



## DRAFT

or not at the expense of the developer, we don't want to have to accept new concrete sound barriers to block new traffic noise in order to accommodate a major new development.<sup>1</sup>

There are measurable “warning flags” that could alert both City officials and developers that such unacceptable circumstances may potentially be involved, despite all of the design and programming skill provided up to that point. The percentage of increase in traffic which a new development is likely to place on any street, whether a lane or an expressway, is an indicator of the likelihood that avoiding travel deterioration will entail street alterations which could be damaging to the nearby quality of life. Where a proposal crosses that threshold of concern, special attention and resolution of any concerns should be called for, possibly entailing project programming revision, additional transportation management efforts, skilled design of the street alterations so that on balance they are acceptable, or through reduction in the proposed scale of the development. Testing for such flags can be done simply and inexpensively early in the design process, saving missteps.

Certain access efforts are particularly critical for large scale mixed-use developments because of their scale, mix of uses, and the importance of their being integrated with their surroundings. These are examples

- 1) Mixed-use developments should have excellent pedestrian and bicycle connections both among different uses within the site and between those uses and the surrounding environs. The new developments should be permeable through interconnections to adjacent developments, wherever possible both by foot and by auto. Visible and adequate bicycle storage areas, and appropriate changing locations with showers for office users, will help support the use of bicycles for commuting.
- 2) The visual and environmental impacts of surface parking should be mitigated and pedestrian accessibility enhanced through locating and designing parking facilities with that in mind, not obliging pedestrians to cross open parking lots in order to reach their destinations.
- 3) Where feasible, accommodate parking in structures, but use surface parking where it can be positive, such as in buffering pedestrians from moving traffic.
- 4) Wherever possible the visual impact of parking facilities should be mitigated with intervening retail or other uses, unless those facilities are of rare design quality themselves<sup>2</sup>.

### **Actions**

---

<sup>1</sup> The principles behind these intentions are drawn from ones advocated nationally by two organizations: “Complete Streets” whose website is [www.completestreets.org](http://www.completestreets.org) and “Context Sensitive Solutions,” whose website is [www.contextsensitivesolutions.org](http://www.contextsensitivesolutions.org).

<sup>2</sup> See Paul Goldberger, The Sky Line, “Wheelhouse,” *New Yorker*, August 9, 2010, describing an example in Miami Beach designed by Herzog & deMeuron.

## DRAFT

- Expand on the contents of the City’s street functional classification system in order to make it more useful. Currently it is only a listing of the street segments that are included under each of six categories. Added to that should be information regarding the street design and usage that are appropriate for that category of streets. That would provide important policy guidance in assessing the appropriateness of street modifications that might be proposed in relation to large-scale development.
- Complement the street functional classification system by adopting a design type classification, as proposed in the “Transportation and Mobility” element of this *Plan*. The *Plan* shows six design categories ranging from Regional Center Roads to Parkways. Just as with the functional classification, this classification should include information about what is or is not appropriate change to the road for consistency with each design type. Having done that would provide predictability for those contemplating large scale developments that might entail street changes, and would be of great value in evaluating such proposals regarding the consistency of project-proposed street alterations with the City’s intentions for the design and character of any affected roads.
- Develop an in-City capacity for early collaborative concept-level estimation of the access and traffic impacts of major developments, better than back of envelope, but quicker and less demanding than the sophisticated studies that would continue to be the basis for final design and approval actions. That capacity would enable an important aspect of the collaborative input and review approach described in the Vision above, engaging City officials and staff, the applicants, and community residents.
- Develop an initial version of the “red flag” system suggested above to provide guidance to both those designing developments and those reviewing them regarding when traffic impacts threaten to result in unacceptable impacts as a consequence of either excessive congestion and disturbance or community and environmental damage to the environs. This would draw upon the above impact estimation. After some experience that system might be further refined and made an integral part of the City’s decision-making system.
- If feasible, integrate this “red flag” system with the parallel one being suggested regarding design and the “acceptable amount of bulk.”
- At the point at which it appears that Massachusetts law would allow it (such as authorization for local municipalities to create general development impact fees), explore creation of a transportation mitigation fund, which among other things would allow traffic mitigation resources to be used for any of a broad range of mitigating actions, not just ones related to road and traffic engineering alterations.

## 5. HOUSING IN MIXED USE

## Background

The inclusion of residences in mixed-use developments has at least three important benefits for Newton. First, if well located, programmed, and designed such a mix of uses can enable new development to enhance our existing community rather than needing to be buffered from it. Such real mixed use can provide wonderfully vital places in which to shop, work, live, or all three, and can help make the development a welcome asset for the neighborhood.

Second, the increasing success of the mixed-use model makes it a valuable means of serving part of the housing needs of the City and the region. The housing in mixed-use developments is almost certain to chiefly serve young households and senior citizens, neither of which is well served by Newton's existing dominantly large-dwelling housing stock.

Third, incorporation of dwellings in the development can make the spatial transitions between the development and any adjoining or nearby residential uses a less disruptive one than otherwise, enabling the new uses at those edges to be as compatible as possible with the existing neighborhood.

The benefits of including housing in large-scale centers is widely understood, but so too are the challenges to achieving that. Among them is the complex volatility of real estate markets, with housing, shopping, workplace and entertainment markets seldom moving in smooth unison, raising the challenge of how to achieve integration of those uses to produce the sought-after vibrancy when markets may make it nearly impossible at times to simultaneously develop all of them. That is one of the key issues dealt with below.

## Guidance

Housing either within or adjacent and integrated with major centers can provide a kind of vitality and fruitful contributions to the creation of wonderful places and an improved quality of life that centers without such housing may not be able to achieve. The presence of housing within the development impacts considerations for location and design. Accordingly, the process being developed for City review and approval of proposals for mixed-use centers reflects having that mix, and all of the following presumes that full rich mix.

The housing within the development should have a clear identity as an important and distinct element, not being simply an after-thought or rule-satisfier. A small number of dwelling units surrounded by business uses and its parking makes it difficult to achieve that which is sought. Housing to be developed as a part of a mixed-use development must be sufficient in scale so that together with possible existing adjacent residential uses it can result in a real neighborhood being created, rather than the housing being an isolated residential fragment in a non-supportive, potentially even hostile, non-residential context. For that reason, it is important for the regulations guiding such development to have clear and explicit guidance on what is to constitute a sufficient housing component while also recognizing that the changing demands of the commercial real estate market may favor specific uses (i.e. retail, office, housing, and hotel) and not others in various market cycles.

## DRAFT

Housing that already exists nearby can importantly contribute to the vitality and exchange that is sought, but achieving that would require skillful design of how the new buildings and uses relate to the existing ones as well as program efforts. Those might include enabling nearby residents to have easy access to the services being provided on-site, assuring that those services are appropriate to the neighbors, as well as to others, and if programmatically provided for, enabling neighbors to gain benefits from both open space and parking.

Given such measures, neighboring off-site units might be considered to be part of the development in determining the allowable scale of non-residential presence as discussed above, where there is evidence that the owners and residents of that adjacent housing have indicated their willing agreement with that inclusion.

Including adjacent residences within the programming concept and “counting” is one means of recognizing market uncertainties inhibiting simultaneous residential and non-residential development. Additionally, any required minimum residential component might be programmed to be provided at a different time than other uses in order to reflect market conditions, but only if there are offsetting benefits that compensate for the delay and also enforceable assurances that the mandated ratio will in fact be attained within a reasonable period of time.

It is important that housing commitments be firmly guided regarding type, location, design and timing of construction in order to produce the kind of vitality and great places being sought. Housing provisions should reflect both the populations appropriately served at that place and time and the amenities in that environment, chosen following discussion with related City officials and housing-related organizations.

Parking demand created by mixed-use developments will reflect the mix of activities, proximity to public transportation, and project-wide demand management efforts. Those considerations may substantially change parking demand, thereby justifying departure from the usual rules of Newton’s parking standards when substantiated by, among other things, recent experience in this and surrounding communities with similar developments.

Compliance with the usual rules for regulating business activity conducted in a dwelling should not be required, although alternative controls to assure an appropriate ambience for family living should apply. Such development might even allow “live/work” units combining both living and working space with the spatial allocation between them subject to change over time.

Open space is essential, including some amount reasonably located for use exclusively by residents and their guests. Unusual but tried ways of providing open space such as green terraces and roofs may help in meeting this need.

It is important that the type of housing being produced within the City helps to address needs not being well-served by the existing stock of housing, and unless direction is provided, the housing being produced also may not well serve those needs. A current

example is the need for housing suitable for seniors at most income levels seeking to down-size or, sometimes, upsize their accommodations.

## Actions

- Develop modeling and procedures to facilitate early collaborative City/developer/community projections of the impacts of the housing upon the adequacy of each of the affected school facilities that are likely to accommodate its enrollment impacts.

## 6. FINANCE AND MIXED USE

### Background

New mixed-use centers clearly can bring substantial amounts of new revenue and new jobs to the City, but too commonly what is claimed and discussed is gross impacts on revenue and jobs, not the net impact after taking into consideration second-order impacts. Those second-order impacts are more difficult to estimate than the gross impacts, but they deserve attention anyhow, since they are often very large, and considering them may substantially change perceptions about development proposal benefits, for better or worse.

Taxes perhaps best illustrate the point. New development brings new tax revenues, but it also brings new service demands. Those costs in some cases can turn what seemed to be a fiscal asset into a fiscal liability. If a new retail development chiefly serves Newton then it likely competes with businesses already here, so that its NET impacts on taxes may well be substantially lower than its gross impacts. On the other hand, the opposite could be true. Some businesses, even local ones, can attract other businesses or support existing ones with their purchases, resulting in those other businesses prospering and expanding, resulting in larger fiscal impacts than just those of their own properties. Similar second order impacts deserve attention when considering jobs, traffic, and other impacts.

The benefits of fiscal gain are readily understood, in part because they are so clearly local. Property taxes generated in Newton go to the City of Newton and benefit its residents. The benefits of gaining jobs are less self-evident, in part because in a metropolitan area they are seen as regional. New jobs located in Newton will largely be held by non-residents of Newton, and workers resident in Newton largely hold jobs not in Newton but elsewhere within the metropolitan area. However, there are a number of good reasons for caring about bringing jobs to Newton, aside from the tax support they bring with them.

First, bringing jobs to Newton to some extent means more jobs for the region and for Massachusetts, and that is good for everyone. Second, the City is expected to grow somewhat in population over the years, and there will be benefits if the current balance of the number of jobs held by Newton residents and the number of Newton residents who

## DRAFT

hold jobs can be maintained. Such “balance” is a widely sought goal. Newton has it, and has had it, more or less, for decades. Losing that balance would mean more commuter traffic and more dependence on other places.

Three mixed-use centers have recently been discussed within Newton, totaling perhaps 1.5 million square feet of non-residential floor area and about 600 dwelling units, one (Chestnut Hill Square) is currently under review. The total amount of business floor area among the three is sufficient to accommodate nearly 4,000 jobs, an 8% addition to the current total of jobs in Newton, while that amount of housing would be a 2% increase in the Citywide total. Together their tax payments (“New Growth” in Prop 2½ terms) at current rates would be about \$13 million, about a 7% increase in the annual City-wide tax levy allowed under Prop 2½. Those amounts of growth are not inconsistent with the expectations and projections for growth made in the Newton *Comprehensive Plan*. As noted above, net figures will change after considering economic “multipliers” and accounting for unavoidable new expenses and “shifting” rather than “creating” jobs and housing, but despite that the above figures provide a helpful background.

### Guidance

It is well-understood that business development in Newton pays in taxes and fees substantially more than it costs the municipality to serve it, offsetting the reality that on average taxes and fees paid by residents are somewhat lower than the costs of municipal services for them. What happens to the fiscal balance when mixed-use development combines both business and residences?

The market for housing in mixed-use centers will unquestionably be largely at opposite ends of the adult life cycle, young couples and empty-nesters. Data from the Newton School Department make clear that the ratio of enrolled pupils to dwelling units is far lower in multi-family dwellings than in single-family ones. Reflecting that, analyses make it clear that on average the tax revenues and tax-supported costs for dwelling units in multifamily developments, including those units whose values and legitimate tax payments are restricted to a below-market level, are almost equal, if anything providing a small positive balance to the overall tax impact. That means that the fiscal impact of mixed-use developments is almost independent of the number of dwelling units they contain, but rather chiefly reflects the favorable balance resulting from the well-understood positive impacts of business development. Importantly, that means that choosing the amount of housing to include in such developments can be considered independent of concern over fiscal impacts.

### Actions

- Clarify and document the City’s requirements regarding development-related impact fees and exactions.

## DRAFT

By paying taxes new development supports City costs, including those associated with the facilities and services for which it creates need. When that need is quite location-specific, it is common to have the development causing the cost bear at least part of it through absorbing public improvement costs, monetary contribution, or some other form of contribution. Current Massachusetts law is not generous in allowing for impact fees or exactions. Statutory authorizations for such treatment are few and narrow, and the courts view of constitutionality has been sharply restrictive. Despite that, some Massachusetts municipalities have home rule legislation authorizing significant charges to be made. Newton's current practices in that regard result in quite substantial efforts by developers to, in effect, restore net capacity of certain infrastructure to what it was without that development. The Commonwealth does the same through the MEPA process for certain costs, importantly highway transportation. However some cost generators, notably school impacts, have not been treated in that way. In short, Newton could do more, but only within limits.

However, there is no apparent rationale for charging fees to mitigate impacts for mixed-use developments but not for single-use developments having equal or larger impacts. Doing so could create a disincentive for developers to propose development under the mixed-use regulations being advocated. If City intent is to establish this type of policy, any impact fee requirements should be addressed as applying to ALL new development, and not uniquely to mixed-use development.

Quite apart from what the City does or does not do about mixed-use development, the City should set out clear and reasonable expectations about the fiscal mitigation it expects *before* it considers large developments. Whether these are transportation or other fiscal impacts, developers should be able to know--in advance-- how our community expects new development to deal with the impacts it creates and what mitigation is reasonable. One by one, *ad hoc* negotiation may not be efficient or equitable for either the City or developers. While it is recognized that new development impact identification often results during the special permit process, we should at least document our expectations in one place so that developers know how to translate our values into project costs without surprise, and so that community residents can know what can or cannot equitably be asked of new development.

- Develop modeling and procedures to facilitate early collaborative City/developer/community projections of the fiscal impacts of the proposed development upon the City.

Fiscal consequences are properly a significant consideration regarding major development, whether mixed use or not. Models for producing projections of such impacts are common-place, but they almost all share the quality of producing projections that lack credibility among those who don't like what they hear unless those persons themselves were a part of producing the projections. Newton should create a system which gives all parties a hand in the analysis, sharing the effort, and hopefully sharing confidence in the outcome. The City should specify the scoping requirements, prepare the mathematical/metric models to be used, and assist but not dominate the execution. The developers and interested community members would

## DRAFT

help in utilization of the modeling by gathering information and critiquing its use. Doing the job that way is more difficult than hiring a consultant to write a report, but is far more valuable for the decision-making process.

Note that this step would serve to integrate other collaborative efforts that have been called for above, including traffic analyses, school impact analyses, and others.

- Make efforts to use mixed-use development as a means of improving the local job-gaining likelihood of persons for whom our housing efforts are trying to make Newton a welcoming community.

If resources for doing so can be found, such an effort would be highly supportive of the policy intent of supporting socio-economic diversity in Newton which now is being implemented almost exclusively through support for below-market housing.

## 7. MIXED-USE GUIDANCE PROCESS

### Background

Mixed-use developments can be created under the City's existing zoning, as is currently proposed at Chestnut Hill Square, and there is every reason to hope that upon their completion such developments will be of benefit for the City. This amendment to the *Newton Comprehensive Plan* makes the City's intentions about such developments clearer, intended to encourage creation of such developments and to guide both applicants and those responding to their proposals.

However, resting on existing rules and the *Comprehensive Plan* alone would for mixed-use developments fall short of what can be accomplished using the process refinements suggested in this Element of the *Plan*. The likelihood of developers choosing mixed-use development and the City gaining the benefits of it will be greatly enhanced by the City taking actions to improve both the regulatory framework for such development and the context for how City agencies and staff, those doing development, affected neighborhoods and other affected interests relate to each other in the consideration and approval of such proposals.

### Guidance and Actions

- Develop modeling and procedures to facilitate early collaborative City/developer/community efforts to create objective projections of the likely impacts of large-scale development upon the vicinity and the City at large.

Action proposals for doing this are included above in the Design discussion regarding impacts upon neighborhood character and the environment; in the Access and Transportation discussion about traffic and the "red flags" it might raise; in the Housing discussion about impact upon schools; and in the Finance portion regarding fiscal impacts. Each of those subjects has been part of the debate regarding each of



## DRAFT

the three mixed-use developments that have been proposed. The only one of those topics that has had the benefit of publicly-discussed analytics to inform the decisions has been traffic.

Well-informed dialog about traffic has largely involved consultants to the developer, City staff, consultants to the City, and MassDOT engineers. Not surprisingly, given how “black box” that dialog has been, the results have often not been persuasive for many of the parties that have been concerned about such developments. There often may be no public agreement even on the scale of traffic impacts, let alone agreement on appropriate mitigations.

Beyond traffic, there has been discussion and assertions on the other topics, but no real public dialog supported by credible analyses. The debate about project approvals in some cases has lacked agreed-upon estimates of even the range within which important impacts are likely to fall.

Newton City government is rich in data, both historic and current. The City is rich among its population as well as among its (busy) staff in expertise on how to utilize those data resources to produce helpful estimates and projections. So, too, are the developers of major projects and their consultants. What would be helpful would be to organize a way of using all of those resources in a well-structured way early in the evolution of development proposals. That could support informed understanding of what can be agreed upon regarding the range within which impacts of development are likely to lie, not only for traffic but also for a range of equally important topics in other areas of concern: design, schools, and taxes; and not only agreement among technicians, but also including members of the public.

Doing that would give new value to the data that the City carefully collects, and if skillfully managed might go far towards reducing conflict in the shaping of new development, ultimately reducing costs for all parties, and reducing the time needed to reach decisions.

- Adopt amendments to the existing zoning that will improve the process for approval of such developments so that they can work better for applicants, for the affected vicinities and interests, and for the City.

There now is a body of experience in Newton that helps to identify where changes would be of value. When the Northland proposal was active, the developer asked for changes to PMBD to fit their development on Needham Street, and those zoning requests were given a formal public hearing prior to the withdrawal of the project. BH-Normandy has suggested a different set of revisions for its proposed development at Riverside. Each sought different changes to the height and setback regulations, land use rules, open space rules, and parking or loading rules, as well as individually seeking other departures, as well.

The need for project-specific relief in each of these cases is no surprise, given the large scale of the developments proposed, and the history of the City’s regulatory

## DRAFT

processes, in which zoning rules and action on special permits relying on such change are often taken in tandem. It is perfectly reasonable for Aldermen to want to have a specific example of what a regulatory change would entail before adopting it. That is how the B-4 district and many other provisions have been created or revised.

It is critically important to structure such change processes so as to avoid overburdening the Zoning Ordinance with a steadily expanding set of project-specific departures. At least equally important, we should have a structure that provides advance clarity about what changes may appropriately be made to reflect project-specific considerations, and which ought to be universally applicable, to be relied upon under all circumstances.

Given that in the past two years three such large-scale mixed-use developments have been proposed in Newton, and a number of others in nearby communities, it is important for the City to put those major changes into place in the near future. Clearly the best way to accomplish that would be through a carefully prepared set of revisions to the existing Planned Mixed Business Development (PMBD) zoning, leaving for some future effort those features requiring longer consideration.

- Consider the potential applicability of much of the guidance of this element for developments that are smaller in scale than the very large ones for which this material has been developed, and for our existing village centers in which the mix of uses is on separate lots developed not at once but rather over many decades.

Good regulation for large-scale mixed residential/commercial developments will contain a number of provisions that would be inappropriate in those other contexts, most obviously the insistence upon integration of a residential presence, as well as a number of other provisions that flow from that. However, many of the provisions in this Element would be perfectly appropriate in many other contexts. Where applicable, the potential benefits of this effort for those other kinds of circumstances deserve to be pursued.

Draft Element 4.doc